

Message Text

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ACTION AF-04

INFO OCT-01 SS-14 ISO-00 NEA-06 SY-10 L-02 PRS-01 NSC-10

NSCE-00 CIAE-00 INR-10 NSAE-00 RSC-01 DODE-00 DRC-01

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FM AMEMBASSY KHARTOUM

TO SECSTATE WASHDC 7365

INFO AMEMBASSY BRUSSELS

C O N F I D E N T I A L KHARTOUM 2488

LIMDIS

E.O. 11652: GDS

TAGS: PINS SU

SUBJ: KHARTOUM ASSASSINATIONS: LEGAL AND OTHER OBSERVATIONS

REF: KHARTOUM 2480

1. EMB ATTORNEY WHO OBSERVED MAGISTERIAL HEARING NOV. 15 AND
CONFERRED SEPARATELY WITH DEFENSE, PROSECUTION AND
MAGISTRATE HAS INFORMED US OF THE FOLLOWING INFO SUPPLE-
MENTARY TO REFTEL.

A. LEGAL PROCEDURE - HANDLING OF CASE BY MAGISTRATE
MUCH IMPROVED OVER SEPT. 25 SESSION. ONLY CRITICISM IS
THAT MAGISTRATE SHOULD HAVE ACTED SOONER TO CUT OFF TERRORIST
LEADER RUDZIK QAS STATEMENT (PARA 3 B REFTEL). HOWEVER,
MAGISTRATE WAS FIRM WHEN HE DID SO. ISSUES OF SUMMARY
VS. NON-SUMMARY PROCEDURE AND RIGHT OF DEFENDANT TO
ADDRESS COURT ARE LEGITIMATE AND MAGISTRATE ACTED
PROPERLY IN REQUESTING BRIEFS.

B. SUMMARY VS. NON-SUMMARY. ATTORNEY (AND WE)
SOMEWHAT SURPRISED DEFENSE CHALLENGED SUMMARY PROCEDURE
BECAUSE OF WHAT WE UNDERSTOOD WAS INFORMAL DEFENSE
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AGREEMENT TO ACCEPT SUMMARY PROCEDURE FOLLOWING

RELEASE DRIVER AND RADIO OPERATOR (KHARTOUM 2323).
POSSIBLE EXPLANATION IS THAT PLO REP ABU KHEIR WAS
OBSERVED MAKING NEGATIVE SIGNALS TO RADZIK WHILE
PROSECUTION WAS READING STATEMENT REQUESTING SUMMARY
PROCEDURE.

C. PACE OF INQUIRY - SHAFIQ AL-RASHIDAT HAS SENT
CABLE ON BEHALF ARAB DEFENSE COUNCIL TO MAGISTRATE
DEMANDING INQUIRY BE ADJOURNED UNTIL ARAB ATTORNEYS
RECEIVE GOS VISAS AND IMPRISONED SUDANESE DEFENSE
ATTORNEYS RELEASED. AL-RASHIDAT CABLE WAS CHARACTERIZED
BY MAGISTRATE TO ATTORNEY AS RUDE AND INSULTING AND WILL
NOT BE ANSWERED. PALESTINIAN BAR PRES JAMAL EL-SAWARANI
HAS ALSO CABLED SUDAN BAR ASSN SEC MAKING SAME POINTS
BUT IN COURTEOUS MANNER. IN CONTRAST, TERRORISTS HAVE
INFORMED MAGISTRATE THEY WISH INQUIRY PROCEED EXPEDITIOUSLY
AS THEY JUDGE MIDDLE EAST CONFLICT HAS IMPROVED
THEIR POSITION.

D. IMPACT OF ACCUSED. WE ARE INFORMED MAGISTRATE
AND PROSECUTION BECOMING EXASPERATED BY RADZIK'S
HIGH-HANDED TACTICS AND UNCOOPERATIVE ACTIONS WHICH
THEY BELIEVE ARE ATTEMPTS HUMILIATE SUDAN AND SUDANESE
JUSTICE. WE UNDERSTAND FROM BELGIAN CHARGE HE HAS
BEEN INFORMED BY GOOD SOURCE THAT PRESIDENT NIMEIRI
THROUGH INTERMEDIARY INFORMED MAGISTRATE AND PROSECUTION
LAST WEEK THEY SHOULD NOT PERMIT POLITICAL ELEMENTS TO
INTRUDE INTO JUDICIAL PROCESS AND HAD RESPONSIBILITY TO
UPHOLD IMAGE OF SUDANESE JUSTICE AT HOME AND ABROAD.
TERRORISTS ALSO REPORTEDLY TREAT THEIR SUDANESE DEFENSE
COUNSEL ARROGANTLY AND NEITHER CONFIDE IN NOR TRUST THEM.

E. "RIGHTS". RIDZIK REPORTEDLY AMPLIFIED TO MAGISTRATE
PRIVATELY ON HIS STATEMENT THAT TERRORISTS ONLY PARTICIPATING
IN TRIAL VOLUNTARILY BY "WAIVING THEIR RIGHTS". RATHER THAN
POSSIBLE IMPLICIT THREAT OF RETALIATION (PROSECUTION SPECULATION
CONTAINED PARA. 3B REFTTEL), RIDZIK INFORMED MAGISTRATE THAT GOS
MINHEALTH (AND SSU DEPSEC GEN) PROMISED TERRORISTS DURING
COURSE NEGOTIATIONS LEADING UP TO TERRORIST SURRENDER THAT
THEY WOULD NOT BE TRIED. DEFENSE COUNSEL DECIDED NOT RAISE
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POINT AT THIS TIME. DURING HIS ABBREVIATED STATEMENT (PARA.
3B REFTTEL) RIDZIK ALSO COMMENTED THAT THE DETENTION IN
AN ARAB COUNTRY OF HEROIC PALESTINIAN COMMANDOES FOR
NEARLY NINE MONTHS WAS UNPRECEDENTED.

2. COMMENT: ATTORNEY INDICATED BELIEF MAGISTRATE
AND PROSECUTION HAVE ENDED PERIOD OF SOME UNCERTAINTY
AS TO THEIR AUTHORITY AND HOW TO HANDLE POLITICAL

OVERTONES OF INQUIRY. HE ACCORDING EXPECTS PROCESS
NOW MOVE MORE SMOOTHLY ALTHOUGH TERRORISTS MAY
CONTINUE ATTEMPTS AT OBFUSCATION. WE INCLINED AGREE
IT NOW APPEARS LEGAL CONSIDERATION THIS CASE IS ON COURSE.
BREWER

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